UNITED
NATIONS

TD

United Nations
Conference
on Trade and
Development

Distr.
GENERAL

TD/B/CN.4/GE.2/7
21 September 1995

Original : ENGLISH

TRADE AND DEVELOPMENT BOARD

Standing Committee on Developing Services
Sectors: Fostering Competitive Services
Sectors in Developing Countries: Shipping
Joint UNCTAD/IMO Intergovernmental Group
of Experts on Maritime Liens and
Mortgages and Related Subjects
Eighth session
London, 9 October 1995
Item 3 of the provisional agenda

CONSIDERATION OF THE POSSIBLE REVIEW OF THE INTERNATIONAL CONVENTION FOR THE UNIFICATION OF CERTAIN RULES RELATING TO THE ARREST OF SEA-GOING SHIPS, 1952

Note by the secretariat of UNCTAD

Submission by the International Chamber of Shipping (ICS) */

The attached text has been submitted by the International Chamber of Shipping for consideration by the Joint Intergovernmental Group of Experts at its eighth session.

*/ Also circulated under the symbol LEG/MLM/34.

GE.95-53287

IMO/UNCTAD
Joint Intergovernmental Group of Experts on
Maritime Liens and Mortgages and Related
Subjects
Eighth session
Item 3 of the provisional agenda

CONSIDERATION OF THE POSSIBLE REVIEW OF THE INTERNATIONAL CONVENTION FOR THE UNIFICATION OF CERTAIN RULES RELATING TO THE ARREST OF SEA-GOING SHIPS, 1952

Submission by the International Chamber of Shipping (ICS)

INTRODUCTION

Subject to the specific comments below, ICS commends the work conducted to date on the revision of the International Convention for the Unification of Certain Rules Relating to the Arrest of Sea-Going Ships, 1952, while acknowledging that the revision is intended to be an exercise of limited scope.

ARTICLE 1 DEFINITIONS

ICS proposes deletion of the words "such as" in the "chapeau" of this Article to avoid creating an open-ended list of maritime claims.

We share the view expressed by some delegations at the last session that the list should remain a closed one in order to ensure that arrest remains an exceptional measure to be used only as a last resort to secure maritime claims. An open-ended list could lead to unreasonable exercise of the right of arrest in respect of claims of only minor importance which would be contrary to the object of the Convention.

With respect to Article 1(1)(k): "pilotage", ICS concurs with the view in footnote 1 that this subparagraph should be deleted because it is repetitive (see Article 1(1)(n)).

ARTICLE 2 POWERS OF ARREST

With respect to Article 2(3): "A ship may be arrested even though it is ready to sail or is sailing", ICS is of the view that it might be dangerous and impractical to arrest a ship which "is sailing". We therefore propose the deletion of this phrase.

ARTICLE 3 EXERCISE OF RIGHT OF ARREST

ICS believes that Alternative 1, the CMI text, is to be preferred. We are of the view that it should only be possible to arrest in respect of maritime claims which are secured by internationally recognized maritime liens.

ARTICLE 5 RIGHT OF REARREST AND MULTIPLE ARREST

ICS believes it is essential that any rights of rearrest and multiple arrest should only exist in specific and clearly defined circumstances. ICS supports the approach adopted by Alternative 2 in preference to Alternative 1.

ARTICLE 6 PROTECTION OF OWNERS AND DEMISE CHARTERERS OF ARRESTED SHIPS

ICS believes that there should be an obligation on the part of the claimant to provide security for any loss incurred by the defendant for which the claimant may be found liable. This obligation should be mandatory rather than discretionary. ICS therefore proposes that the opening words of Article 6(1) be amended to read:

"The court shall as a condition of the arrest of a ship .....".